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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,695	07/17/2000	John M. Connell	H053336.0001US1	9073
1200	7590	03/20/2006	EXAMINER	
AKIN, GUMP, STRAUSS, HAUER & FELD 1111 LOUISIANA STREET 44TH FLOOR HOUSTON, TX 77002			JONES, HUGH M	
			ART UNIT	PAPER NUMBER
			2128	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/617,695

Applicant(s)

CONNELL ET AL.

Examiner

Hugh Jones

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152). |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 38-54 of U. S. Application 09/617,695, filed 07/17/2000, are pending.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 38-54 are rejected on the ground of nonstatutory double patenting over claims 1-37 of U. S. Patent 6,101,324.

6. The subject matter claimed in the instant application is fully disclosed in the patented claims since the issued patent and the instant application are claiming common subject matter.

The instant claims are a broadening of the issued claims. Claims 38-54 are therefore anticipated by the patented claims in that the patented claims contain all the limitations of claims 38-54 of the instant application.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 38-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Culbertson et al. in view of Bures.

10. Culbertson et al. disclose all limitations as subsequently discussed; however, Culbertson et al. does not expressly disclose use of touch screen techniques.

11. Bures disclose use of such techniques. See title, abstract, figure 1.

12. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Culbertson et al. disclosure with the touch screen teaching of Bures because it would be easier and faster to touch a screen (see fig. 1, Bures) than to type one or more commands on the keyboard (see fig. 1, Bures).

13. Specifically, the prior art discloses:

38. A system for interactive management of audio events from a plurality of audio sources, the system (C: fig. 1 (broadcast system, fig. 2 (sequencing in broadcast systems – see also all user input steps (user input in broadcast system)), col. 1, lines 12-41 (discusses prior art user input in broadcast systems) comprising:

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at least one audio source associated with a plurality of audio events (C: fig. 1 (broadcast system, fig. 2 (sequencing in broadcast systems – see also all user input steps (user input in broadcast system))), col. 1, lines 12-41 (discusses prior art user input in broadcast systems);

a touch screen computer having a touch screen display coupled to the audio source for selection of audio events, the touch screen computer generating a schedule of audio events comprising the selected audio events (C: fig. 1 - # 12, 26, 28; B: fig. 1);

a memory coupled to the touch screen computer for storing the schedule of audio events (C: fig. 1 – 22, 24); and

means for playing the audio events from the associated audio source according to the schedule of audio events (C: fig. 1 – 14, 16, 18, 20).

39. The system of claim 38, wherein the schedule of audio events are displayed on the touch screen display (C: fig. 1 – 28; B: fig. 1).

40. The system of claim 38, wherein the schedule of audio events is generated capable of modification (C: fig. 2 – user commands).

41. The system of claim 40, wherein the schedule of audio event can be modified by touching displayed schedule of audio events according to various modifying options (C: fig. 2 – user commands).

42. The system of claim 41, wherein a modifying option comprises deactivation and activation of an audio event of the schedule of audio events (C: fig. 2 – user commands).

43. The system of claim 41, wherein a modifying option comprises reordering of the audio events of the schedule of audio events (C: fig. 2 – user commands).

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44. The system of claim 38, wherein the selection of an audio events results in immediate play of the selected audio events (C: fig. 2 – user commands).

45. The system of claim 38, the touch screen computer further comprising;
a switch coupled to the audio source, the switch activated by the touch screen computer according to the selection of an audio event and the audio source associated with the selected audio event (C: fig. 1# 12, 26, fig. 2 – user commands).

46. The system of claim 38, wherein the audio source is a compact disc (C: fig. 1 # 16, 18).

47. The system of claim 38, wherein the audio source is a computer file (C: fig. 1 22, 24).

48. The system of claim 47, wherein the computer file is stored in the memory (C: fig. 1 # 22).

49. The system of claim 38, wherein the audio source is a remote source accessed by the touch screen computer via a telephone line (C: fig. 1 # 22).

50. The system of claim 38, wherein the audio source is a remote source accessed by the touch screen computer via a satellite feed (C: fig. 1 # 22).

51. The system of claim 38, farther comprising a plurality of audio sources associated with the plurality of audio events C: fig. 1 # 16).

52. A method for playing audio events from a plurality of audio sources using an interactive touch screen video system (C: fig. 1 (broadcast system, fig. 2 (sequencing in broadcast systems – see also all user input steps (user input in broadcast system))), col. 1, lines 12-41 (discusses prior art user input in broadcast systems), the method comprising the steps of:

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associating in a memory a plurality of audio events with an audio source (C: fig. 1, # 12, 22, 24, 26);

displaying representations of a plurality of audio events on a touch screen display (C: fig. 1 # 28; B: fig. 1;

selecting a plurality of audio events by touching the displayed representation of the audio event (C: fig. 1 (broadcast system, fig. 2 (sequencing in broadcast systems – see also all user input steps (user input in broadcast system))), col. 1, lines 12-41 (discusses prior art user input in broadcast systems; B: fig. 1);

storing a schedule of audio events from the selected audio events in a memory log (C: fig. 1 # 22, 24); and

playing the audio events from the associated audio source according to the schedule of audio events in the memory log (C: fig. 1 # 12, 20).

53. The method of claim 52, further comprising the steps of:

displaying the schedule of audio events on the touch screen display (C: fig. 1 # 28, B: fig. 1); and

modifying the schedule of audio events by touching the displayed schedule of audio events according to various modifying options (C: fig. 1 (broadcast system, fig. 2 (sequencing in broadcast systems – see also all user input steps (user input in broadcast system))), col. 1, lines 12-41 (discusses prior art user input in broadcast systems).

54. The method of claim 52, further comprising the step of:

associating a plurality of audio sources associated with a plurality of audio events (C: 16, 18, 22, 24, 20).

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Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be:

directed to: Dr. Hugh Jones telephone number (571) 272-3781,

Monday-Thursday 0830 to 0700 ET,

or

the examiner's supervisor, Kamini Shah, telephone number (571) 272-2279.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

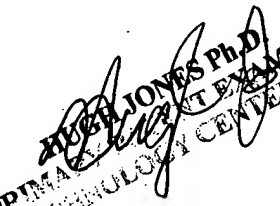
(703) 308-9051 (for formal communications intended for entry)

or (703) 308-1396 (for informal or draft communications, please label *PROPOSED* or *DRAFT*).

Dr. Hugh Jones

Primary Patent Examiner

March 11, 2006


HUGH JONES Ph.D.
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2100